

**ABRIDGED SUMMARY OF CATEGORICAL USE OF FORCE INCIDENT AND FINDINGS BY THE LOS ANGELES BOARD OF POLICE COMMISSIONERS**

**OFFICER-INVOLVED SHOOTING – 031-09**

<b>Division</b>	<b>Date</b>	<b>Duty-On (X) Off ( )</b>	<b>Uniform-Yes(X) No( )</b>
Northeast	05/03/2009		

<b>Officer(s) Involved in Use of Force</b>	<b>Length of Service</b>
Officer A	3 years, 9 months
Officer B	1 year, 6 months

**Reason for Police Contact**

Officers responded to a residential disturbance call, where there were reports of yelling and screaming. The officers received information from the subject's mother that he was mentally disturbed and made entry into the residence, where a use of force incident occurred.

<b>Subject</b>	<b>Deceased ( )</b>	<b>Wounded (X)</b>	<b>Non-Hit ( )</b>
Subject 1: Male, 51 years old.			

**Board of Police Commissioners' Review**

This is a brief summary designed only to enumerate salient points regarding this Categorical Use of Force incident and does not reflect the entirety of the extensive investigation by the Los Angeles Police Department (Department) or the deliberations by the Board of Police Commissioners (BOPC). In evaluating this matter, the BOPC considered the following: the complete Force Investigation Division investigation (including all of the transcribed statements of witnesses, pertinent suspect criminal history, and addenda items); the relevant Training Evaluation and Management System materials of the involved officers; the Use of Force Review Board recommendations; the report and recommendations of the Chief of Police; and the report and recommendations of the Inspector General. The Los Angeles Police Department Command Staff presented the matter to the Commission and made itself available for any inquiries by the Commission.

The following incident was adjudicated by the BOPC on April 4, 2010.

Because state law prohibits divulging the identity of police officers in public reports, for ease of reference, the masculine pronouns (he, his, and him) will be used in this report to refer to male or female employees.

## **Incident Summary**

Uniformed Officers A and B responded to a disturbance call where a 911 caller had reported hearing yelling and screaming.

Upon arrival, Officer B advised Communication Division (CD) that his unit had arrived at the location. The officers then exited their police vehicle and approached the residence. Standing in the front yard was a male. The officers asked Subject 1 if they could speak to him. Subject 1 responded "no" and entered the residence. Subject 1 went inside very quickly, slammed the door, and screamed. He was swearing at the officers and refusing to come outside.

The officers then approached the rear yard to check for any subjects or victims. After determining that there was no one in the yard, the officers knocked on the front door. Witness A, the mother of Subject 1, opened the door and the officers told her that someone had reported a disturbance. Witness A told the officers that she did not call the police but that Subject 1 had been yelling obscenities to someone across the street, and that she told him that if he did not stop, someone would call the police. Witness A also told the officers that Subject 1 was hearing voices, yelling, throwing things around the house, and was not on any type of medication. Witness A then requested that the officers speak to Subject 1 and invited them inside. Prior to entering, Officer A inquired if Subject 1 possessed any weapons. Witness A shrugged her shoulders in response.

Officers A and B then entered the residence and observed Witness B, Subject 1's father, standing in the living room. Witness A and Witness B were then asked to take a seat on the couch, while the officers attempted to talk to Subject 1, who was behind a closed door.

Subject 1 yelled at the officers from behind the closed door. The officers approached the door, and Officer A attempted to convince Subject 1 to come out from behind the door. Subject 1 did not comply with the request and continued to yell incoherently at the officers. Officer A then asked Officer B if he had a TASER, and Officer B responded that he did not. Officer B left the residence and obtained a TASER from the police vehicle's trunk. As he did so, Officer B contacted CD to request a backup unit.

Having obtained the TASER, Officer B returned to where Officer A was standing by the door. Subject 1's yelling had gotten louder and more agitated.

Officer A advised Officer B that he would attempt to open the door to confront Subject 1 and that Officer B should be prepared to deploy the TASER. Officer A opened the door.

The officers, who were now standing in the doorway to the hallway, were five to six feet from Subject 1 and could not see his right hand. Officer A asked Subject 1 what he had in his right hand. Subject 1 responded with, "my swizzle stick," meaning his machete. Subject 1 took a fighting stance, and Officer B discharged the TASER at Subject 1 from a distance of about six feet. Officer A did not warn Subject 1 that the TASER would be utilized.

Subject 1 was struck by two TASER darts in the upper torso, which he pulled from his body while falling to the floor. Subject 1 came to rest partially inside the bathroom at the end of the hallway. Subject 1 then reached into the bathroom with his right hand, and Officer B activated the TASER a second time.

Subject 1 then stood up and took a position behind an unhinged door. Officer A observed that Subject 1 was holding a machete in his right hand.

**Note:** The machete held by Subject 1 measured 25 ½ inches in total length with a blade length of 20 ½ inches.

Officer B moved toward Subject 1 after using the TASER and heard metal scraping on the ground and observed Subject 1 reaching for the machete. Officer B then shouted “knife” and drew his weapon.

Subject 1 then moved toward the officers while still holding the machete in his right hand and the door with his left hand. Subject 1 made a slashing motion with the machete and got within three to four feet of the officers. Officer A drew his service pistol, moved backwards down the hallway, and gave commands to Subject 1 to drop the machete.

While moving toward the officers, Subject 1 made another slicing motion with the machete. Officer A then fired one round at Subject 1 from a distance of approximately two feet, which struck the unhinged door. According to Officer A, he did not know whether his round hit Subject 1, as Subject 1 continued moving in his direction with the machete in his right hand.

Subject 1 then attempted to make a third slicing motion with the machete, and Officer A fired a second shot from a distance of three to four feet, stopping Subject 1.

Subject 1 fell backwards and landed on his back. Officer A approached Subject 1 and observed the machete lying on the floor. Officer A then de-cocked and holstered his weapon. The officers broadcast a help call and requested a Rescue Ambulance (RA).

Officer A approached Subject 1 and conducted a quick pat-down search of his waistband and then held Subject 1’s right arm and shoulder to assist him to an upright position.

Meanwhile, Officer B approached and grabbed Subject 1 by his upper left arm and by his belt to assist him to his feet. After Officer B assisted Subject 1 to his feet, he observed a knife on Subject 1’s belt, which he removed from the belt and handed to Officer A.

Officer B told Officer A that they would have to get Subject 1 out of the residence because an RA would not be able to maneuver inside. The officers then walked Subject 1 from the residence and Officer A found another knife in Subject 1’s pocket. Officer B further stated that Subject 1, while being helped from the residence, told the

officers that he had two knives on his person, and Officer A recovered the second knife from him in the hallway.

After exiting the residence, the officers walked Subject 1 onto the porch and sat him on a step. Officer B he saw blood coming from Subject 1's right forehead, and there was blood all over Subject 1's hands and arms. Officer A then handcuffed Subject 1's left wrist with his handcuffs, while Officer B handcuffed Subject 1's right wrist with his handcuffs. Both sets of handcuffs were then joined together behind Subject 1's back.

Officers C and D arrived at the location in response to Officer B's help call, along with Sergeant A. As Officers C and D and Sergeant A approached the residence, they were met by Officer B, who told them that an officer-involved shooting had occurred. Sergeant A then assumed the role of Incident Commander.

Officer D was then directed by Officer A to assist him in a search of the residence, and Sergeant A directed Officer C to follow them while he (Sergeant A) remained with Subject 1 on the porch.

Sergeant B arrived at the location and was directed by Sergeant A to monitor Officer B. Simultaneously, an RA arrived at the scene and proceeded to treat Subject 1's injury.

### **Los Angeles Board of Police Commissioners' Findings**

The BOPC reviews each Categorical Use of Force incident based upon the totality of the circumstances, namely all of the facts, evidence, statements, and all other pertinent material relating to the particular incident. In every case, the BOPC makes specific findings in three areas: Tactics of the involved officer(s); Drawing/Exhibiting/Holstering of a weapon by any involved officer(s); and the Use of Force by any involved officer(s). All incidents are evaluated to identify areas where involved officers can benefit from a tactical debriefing to improve their response to future tactical situations. This is an effort to ensure that all officers benefit from the critical analysis that is applied to each incident as it is reviewed by various levels within the Department and by the BOPC. Based on the BOPC's review of the instant case, the BOPC unanimously made the following findings.

#### **A. Tactics**

- The BOPC found Officers A and B's tactics to warrant Administrative Disapproval.

#### **B. Drawing/Exhibiting/Holstering**

- The BOPC found Officers A and B's drawing to be in policy.

#### **C. Less-Lethal Use of Force**

- The BOPC found Officer B's less-lethal use of force to be in policy.

## **D. Lethal Use of Force**

- The BOPC found Officer A's lethal use of force to be in policy.

## **Basis for Findings**

### **A. Tactics**

- In adjudicating this incident, the BOPC considered that:
  1. The officers knocked on the front door and made contact with Witness A, who described her son as exhibiting abnormal behavior that may have been the result of a mental illness. Witness A was also unsure whether there were weapons in the house. At this point, Officers A and B approached the room into which Subject 1 retreated and conversed with Subject 1 through the closed door. From the onset of the dialogue, Subject 1 was yelling profanities at the officers and directing them to leave. It was only after Officer A's attempts to convince Subject 1 to open the door and exit of his own accord for approximately five to eight minutes that Officer B broadcast a back-up request.

Although a back-up request was eventually made, there were several occurrences that would have warranted such a request earlier in the scenario. When circumstances warrant an emergency response of additional personnel, it is imperative that CD has the pertinent information readily available to provide to the responding units, maximizing their ability to properly respond and make the most appropriate tactical decision.

2. When Subject 1's voice became louder and notably agitated, Officer A directed Officer B to return to their police vehicle and retrieve their TASER. As the change in Subject 1's demeanor prompted the officers to obtain a less-lethal force tool, it appeared the officers recognized the potential for a volatile situation. A circumstance was thereby created wherein Officer B would have been unable to render immediate aid to Officer A had the need arisen.

By maintaining possession of all available force options, officers would enable themselves to take action without delay.

3. It appears Officer B was unaware that Officer A intended to open the door and initiate contact with Subject 1.

Effective communication among partners is paramount for officer safety and planning. Officers are trained to work together and function as a team.

4. Officer A heard Officer B broadcast a back-up request over the radio. Shortly thereafter, Officer A heard units broadcasting their response to CD. Cognizant that additional personnel were responding and noting Subject 1 was becoming

increasingly agitated, Officer A's decision to open the door and initiate contact was concerning.

When a subject is contained and there is no evidence to indicate that immediate action is necessary, time should be utilized to maintain a line of communication with the subject, devise a tactical plan, and await the response of additional officers.

5. When Subject 1 appeared in the doorway, Officers A and B stood in the hallway and repeatedly ordered Subject 1 to bring his right hand into view. When Subject 1 failed to comply with the officers' commands, Officer A deployed the TASER. Neither officer provided a verbal warning prior to the deployment of the TASER.

When feasible, officers are required to provide a verbal warning prior to utilizing less-lethal force tools which may increase the risk of serious injury to the subject.

6. When Officer A approached Subject 1 and initiated physical contact, Officer B's service pistol was holstered. Although Officer B was in position to render immediate assistance to his partner, he did not adhere to the role of contact and cover, wherein one officer provides protection from a position of surveillance and control.

When approaching a subject where the weapon has yet to be recovered, the contact and cover concept should not be compromised.

7. In this instance, following the OIS, Officer A approached Subject 1 and conducted a pat down search. Officers A and B then assisted Subject 1 to his feet. As the officers escorted Subject 1 toward the front door, Officer B observed a folding knife clipped onto Subject 1's waistband, while Officer A observed an additional folding knife clipped to Subject 1's right front pants pocket. Both knives were recovered without incident. When a previously armed subject is taken into custody, a thorough search is warranted, as the subject may be armed with additional weapons.
8. Subject 1 was outside and seated on the porch steps when he was handcuffed by Officers A and B. Even following an OIS where a subject is injured, a subject that has displayed a propensity for violence against officers remains a potential threat and immediate handcuffing is a tool which may decrease the threat.

Officers A and B were responsible for tactical decisions that warranted great concern, and the BOPC was critical of Officers A and B's decision to prematurely enter the subject's space without additional personnel; however, even more concerning was the act of separating, which unnecessarily placed Officer A's safety in jeopardy. The preponderance of evidence demonstrates that the tactics and decisions employed during this incident *"unjustifiably and substantially deviated from approved Department tactical training."*

The BOPC found Officers A and B's tactics to warrant administrative disapproval.

### **B. Drawing/Exhibiting**

Subject 1 was struck by the TASER probes in his upper torso area and fell rearward. As Subject 1 stood up, he produced a machete and held it in his right hand. As a result of Subject 1 being armed, Officers A and B drew their service pistols. Based on Subject 1's actions, it was reasonable for Officers A and B to believe that the tactical situation had escalated to the point where lethal force may become necessary.

Following the OIS, Subject 1 fell into the bathroom and out of Officer B's line of sight resulting in Officer B holstering his service pistol.

Although Officer A, the officer in the forefront, maintained his service pistol drawn and in a low ready position, Officer B holstered his service pistol based upon the perception that the subject was no longer armed. Officer B neither knew the extent of Subject 1's injuries nor the proximity of the machete to him. Therefore, Officer B created a circumstance wherein his ability to immediately engage a threat, if necessary, would have been delayed. The Tactical Debrief will include a discussion regarding this issue.

The BOPC found Officers A and B's drawing to be in policy.

### **C. Less-Lethal Use of Force**

The subject displayed aggressive behavior prior to the application of less-lethal force. The subject's behavior coupled with his concealed right hand created a circumstance wherein conventional tactics would have been ineffective because it was unsafe to approach within contact range.

The BOPC found Officer B's less-lethal application of force to be in policy.

### **D. Lethal Use of Force**

Subject 1 swung his machete at Officer A while utilizing a detached interior door as cover. Officer A, with his service pistol drawn, made an attempt to create distance between himself and Subject 1; however, Officer A's movements were restricted by the configuration of the hallway.

After the round struck the door, Officer A noted the machete remained in Subject 1's right hand and extended outward in his direction. Officer A fired a second shot as Subject 1 attempted to make a third slicing motion with the machete.

The BOPC determined that based on the actions of Subject 1, it was objectively reasonable to utilize lethal force in order for Officer A to protect himself and his partner from the immediate threat of serious bodily injury or death.

The BOPC found Officer A's use of lethal force to be in policy.